

FINAL VERSION

DELTA PROTECTION COMMISSION REGULATIONS

FOR

GOVERNANCE OF PROCEDURES OUTLINED IN THE  
LAND USE AND RESOURCE MANAGEMENT PLAN  
FOR THE PRIMARY ZONE OF THE SACRAMENTO-SAN  
JOAQUIN DELTA

Title 14, California Code of Regulations, Chapter 3. ~~Limitations on Locating New Sewage Treatment Facilities and Sewage Sludge and Effluent Disposal Areas in the Delta Primary Zone~~ Regulations Governing Land Use and Resource Management in the Primary Zone of the Sacramento-San Joaquin Delta.

Section 20030: ~~Location of New Sewage Treatment Facilities and Areas for Disposal of Sewage Effluent and Sewage Sludge.~~ Overview

- a) The Delta Protection Act of 1992 (Public Resources Code Section 29760 et seq.) requires the Commission to prepare and adopt and thereafter review and maintain a comprehensive long-term resource management plan for land uses within the Primary Zone of the Delta ("resource management plan"). The resource management plan is to set forth a description of the needs and goals for the Delta and a statement of the policies, standards, and elements of the resource management plan. Within 180 days of the adoption of the resource management plan or any amendments by the Commission, all local governments, as defined in Public Resources Code Section 29725, shall submit to the Commission proposed amendments which will cause their general plans, as defined in Government Code Section 65300 et seq., to be consistent with the criteria outlined in Public Resources Code Section 29763.5 with respect to land located within the Primary Zone. The following regulations are the policies of the resource management plan. The regulations to not apply to other local agencies, as defined in Public Resources Code Section 29724, or to reclamation districts.
- b) The term "shall" in these regulations is mandatory; the terms "may", "should", and "can" are advisory.

Section 20040: Environment

- lands.
- a) The priority land use of areas of prime soil shall be agriculture. If commercial agriculture is no longer feasible due to subsidence or lack of adequate water supply or water quality, land uses which protect other beneficial uses of Delta resources, and which would not adversely affect agriculture on surrounding or viability or cost of levee maintenance, may be permitted. If temporarily taken out of agriculture production due to lack of adequate water supply or water quality, the land shall remain reinstatable to agricultural production for the future.
  - b) Agricultural and land management practices shall minimize subsidence of peat soils. Local governments shall support studies of agricultural methods that minimize subsidence and shall assist in educating landowners and managers as to the value of utilizing these methods.
  - c) Lands managed primarily for wildlife habitat shall be managed to provide several inter-related habitats. Delta-wide habitat needs should be addressed in development of any wildlife habitat plan. Appropriate programs, such as “Coordinated Resource Management and Planning” (Public Resources Code Section 9408(c)) and “Natural Community Conservation Planning” (Fish and Game Code Section 2800 et seq.) should ensure full participation by local government and property owner representatives.

Authority: Public Resources Code Section 29752.

Reference: Public Resources Code Sections 29760, 29763, and 29763.5.

## Section 20050: Utilities and Infrastructure

- a) Impacts associated with construction of transmission lines and utilities can be mitigated by locating new construction in existing utility or transportation corridors, or along property lines, and by minimizing construction impacts.  
Before new transmission lines are constructed, the utility should determine if an existing line has available capacity. To minimize impacts on agricultural practices, utility lines shall follow edges of fields. Pipelines in utility corridors or existing rights-of-way shall be buried to avoid adverse impacts to terrestrial wildlife. Pipelines crossing agricultural areas shall be buried deep enough to avoid conflicts with normal agricultural or construction activities. Utilities shall be designed and constructed to minimize any detrimental effect on levee integrity or maintenance.
- b) New houses built in the Delta agricultural areas shall continue to be served by independent potable water and wastewater treatment facilities. Uses which attract a substantial number of people to one area, including any expansions to the Delta communities, recreational facilities or businesses, shall provide adequate infrastructure improvements or pay to expand existing facilities, and not overburden the existing limited community resources. New or expanded construction of wastewater disposal systems shall ensure highest feasible standards are met, as determined by the local governing body. Independent treatment facilities shall be monitored to ensure no cumulative adverse impact to groundwater supplies.
- c) New sewage treatment facilities (including storage ponds) and new areas for disposal of sewage effluent and sewage sludge shall not be located within the Delta Primary Zone. The Rio Vista project, as described in the adopted Final Environmental Impact Report for such project, and the Ironhouse Sanitary District use of Jersey Island for disposal of treated wastewater and biosolids are exempt from this policy.
- d) High groundwater tables and subsiding soil make the Delta an inappropriate location for solid waste disposal. Generation of waste shall be minimized through recycling programs for metals, glass, paper, cardboard, and organic materials. Recycling depots for these materials shall be located in central locations to serve Delta residents, visitors, and businesses.

- e) Surface transportation in the Delta can be dangerous and congested. Roads within the Delta shall be maintained to serve the existing agricultural uses and supporting commercial uses, recreational users, and Delta residents. Where possible, commuter traffic and through traffic should be directed to surrounding highways and freeways, or minimized through programs which promote carpools, buses or trains.
- f) Air transportation in the Delta shall be allowed to continue to serve Delta residents and agriculture-related businesses. Due to subsidence, transmission lines, high winds, fog, and high raptor and waterfowl use, the Primary Zone is not an appropriate location for new or expanded general aviation airports.
- g) Operation of draw and swing bridges shall balance needs of land and water traffic. Commercial vessels and emergency road traffic shall have right-of-way over other traffic.

Authority: Public Resources Code Section 29752.

Reference: Public Resources Code Sections 29760, 29763 and 29763.5.

Section 20060: Land Use

- a) The rich cultural heritage and strong agricultural base of the Delta shall be preserved and recognized in public/private facilities, such as museums within the existing communities.
- b) Local government general plans, as defined in Government Code Section 65300 et seq., and zoning codes shall continue to strongly promote agriculture as the primary land use in the Primary Zone; recreation land uses shall be supported in appropriate locations and where the recreation uses do not conflict with agricultural land uses or other beneficial uses, such as waterside habitat. County plans and ordinances may support transfer of development rights, lot splits with no increase in density, and clustering to support long-term agricultural viability and open space values of the Primary Zone. Clustering is intended to support efficient use of agricultural lands, not to support new urban development in the Primary Zone. Local governments shall specifically indicate when, how, and why these options would be allowed in the Primary Zone.
- c) New residential, recreational, commercial, or industrial development shall ensure that appropriate buffer areas are provided by those proposing new development to prevent conflicts between any proposed use and existing agricultural use.  
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Buffers shall adequately protect integrity of land for existing and future  
agricultural uses. Buffers may include berms and vegetation, as well as setbacks of  
500 to 1,000 feet.
- d) New non-agricultural residential development, if needed, shall be located within the existing Primary Zone communities where support infrastructure and flood protection are already provided.
- e) Local government general plans shall address criteria under which general plan amendments in the Primary Zone will be evaluated under Public Resources Code Section 29763.5. Proposed amendments to local government general plans for areas in the Primary Zone shall be evaluated in terms of consistency of the overall goals and program of the Delta Protection Commission.
- f) Subsidence control shall be a key factor in evaluating land use proposals.
- g) Structures shall be set back from levees and areas which may be needed for future levee expansion.

- h) Local government policies regarding mitigation of adverse environmental impacts under the California Environmental Quality Act may allow mitigation beyond county boundaries, if acceptable to reviewing fish and wildlife agencies, for example in approved mitigation banks. Mitigation in the Primary Zone for loss of agricultural lands in the Secondary Zone may be appropriate if the mitigation program supports continued farming in the Primary Zone.
- i) The implementation of the policies contained in the resource management plan shall not be achieved through the exercise of the power of eminent domain unless requested by the landowner.

Authority: Public Resources Code Section 29752.

Reference: Public Resources Code Sections 29760, 29763, and 29763.5.

## Section 20070: Agriculture

- a) Commercial agriculture in the Delta shall be supported and encouraged as a key element in the State's economy and in providing the food supply needed to sustain the increasing population of the State, the Nation, and the world.
- b) Local governments, as defined in Public Resources Code Section 29725, shall identify the unique qualities of the Delta which make it well suited for agriculture. These qualities include: rich soil, ample supplies of water, long growing season, mild climate, and proximity to packaging and shipping infrastructure. The unique physical characteristics of the Delta also require that agricultural landowners maintain extensive levee systems, provide flood control, and have adequate drainage to allow the lands to be farmed.
- c) Education of the local populations about the value and rich heritage of agriculture in the State and in the Delta shall be continued and expanded.
- d) Local governments shall support long-term viability of commercial agriculture in the Delta because of its economic and environmental importance to the State and local communities.
- e) Support shall be given to current and alternative programs that help to minimize the need for costly production inputs such as fertilizers, pesticides, and herbicides as long as crop production levels and agricultural income can be maintained. Improving crop production and agricultural income is vital to the success of Delta agriculture.
- f) Each local government shall continue to implement the necessary plans and ordinances to: maximize agricultural parcel size; reduce subdivision of agricultural lands; protect ordinary agricultural activities; protect agricultural land from conversion to other uses; and clearly define areas in that jurisdiction where urban land uses are appropriate and where agricultural land uses are appropriate. An optimum package of regulatory and incentive programs would include: (1) an urban limit line; (2) minimum parcel size consistent with local agricultural practices and needs; (3) strict subdivision regulations regarding subdivision of agricultural lands to ensure that subdivided lands will continue in agriculture; (4) delete from zoning ordinances "other" land uses which are not compatible with agriculture; (5) require adequate buffers between agricultural and non-agricultural land uses particularly residential development outside but adjacent to right-to- the Primary Zone; (6) an agriculture element of the general plan; (7) a farm ordinance; and (8) a conservation easement program.

- g) Local governments shall encourage acquisition of agricultural conservation easements as mitigation for projects within each county, or through public or private funds obtained to protect agricultural and open space values, and habitat value that is associated with agricultural operations. Encourage transfer of development rights within land holdings, from parcel to parcel within the Delta, and where appropriate, to sites outside the Delta. Promote use of environmental mitigation in agricultural areas only when it is consistent and compatible with ongoing agricultural operations and when developed in appropriate locations designated on a countywide or Delta-wide habitat management plan.
- h) Local governments shall encourage management of agricultural lands which maximize wildlife habitat seasonally and year-round, through techniques such as sequential flooding in fall and winter, leaving crop residue, creation of mosaic of small grains and flooded areas, controlling predators, controlling poaching, controlling public access, and others.
- i) Local governments may continue to retain agricultural zoning and minimum parcel sizes as described in zoning codes in place January 1, 1992. Where minimum parcel size is less than 40 acres, local governments shall smaller parcel sizes will support long-term viability of commercial the Primary Zone. This policy shall not be construed to require the re-subminimum parcels.
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- j) (i) Local governments may develop programs to cluster agriculture-dependent residential units or transfer development rights (TDRs) to off-site locations. Clustering on a single farm would be for family members or employees and would not exceed maximum number of units allowed under existing zoning as of January 1, 1992. Clustering would be accompanied by conditions to preserve agricultural use and open space values on the balance of the property. TDRs may involve transfers from farms to Primary Zone communities with adequate flood protection to protect residential use, or to sites out of the Primary Zone.
- (ii) Local governments that pursue clustering or transfer of development rights shall proceed with adoption procedures to implement such programs as part of
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- local government implementation of the resource management plan.
- (iii) Where portions of cities are located within the Primary Zone, cities shall indicate zoning which was in place on January 1, 1992. Future changes to city general plans or zoning ordinances shall conform to the resource management plan.



Authority:     Public Resources Code Section 29752.

Reference:    Public Resources Code Sections 29760, 29763, and 29763.5.

Section 20080: Water

- a) Local governments shall ensure that salinity in Delta waters allows full agricultural use of Delta agricultural lands, provide habitat for aquatic life, and meet requirements for drinking water and industrial uses.
- b) Local governments shall ensure that design, construction, and management of any flooding program to provide seasonal wildlife habitat on agricultural lands shall incorporate "best management practices" to minimize mosquito breeding opportunities and shall be coordinated with the local vector control districts. (Each of the four vector control districts in the Delta provides specific wetland/mosquito management criteria to landowners within their district.)
- c) Water agencies at local, State, and federal levels shall work together to ensure that adequate Delta water quality standards are set and met and that beneficial uses of State waters are protected consistent with the CALFED (see Water Code Section 12310 (f)) Record of Decision dated August 8, 2000.

Authority: Public Resources Code Section 29752.

Reference: Public Resources Code Sections 29760, 29763, and 29763.5.

Section 20090: Recreation and Access

- a) Where public funds are limited, local governments shall promote maintenance and supervision of existing public recreation areas over construction of new public facilities.
- b) To minimize impacts to agriculture and to wildlife habitat, local governments shall encourage expansion of existing private water-oriented commercial recreational facilities over construction of new facilities. Local governments shall ensure any new recreational facilities will be adequately supervised and maintained.
- c) Local governments shall develop siting criteria for recreation projects which will ensure minimal adverse impacts on: agricultural land uses, levees, and public drinking water supply intakes, and identified sensitive wetland and habitat areas.
- d) Local governments shall improve public safety on Delta waterways through enforcement of local, State, and federal laws.
- e) Local governments shall encourage provision of publicly funded amenities in or adjacent to private facilities, particularly if the private facility will agree to supervise and manage the facility (fishing pier, overlook, picnic area) thus lowering the long-term cost to the public.
- f) Local governments shall support multiple uses of Delta agricultural lands, such as seasonal use for hunting, or improved parking and access sites.
- g) Local governments shall support improved access for bank fishing along State highways and county roads where safe and adequate parking can be provided and with acquisition of proper rights-of-access from the landowner. Adequate policing, garbage cleanup, sanitation facilities, and fire suppression for access shall be provided.
- h) New, renovated, or expanded marinas shall include adequate restrooms, pumpout facilities, trash containers, oily waste disposal facilities, and other facilities necessary to meet needs of marina tenants. ~~These facilities shall be provided free or at low cost to offset costs of maintenance.~~ Use fees may be charged for the use of these facilities but such fees shall not exceed the cost of maintenance.
- i) Local governments shall encourage new recreation facilities that take advantage of the Delta's unique characteristics.

Authority:     Public Resources Code Section 29752.

Reference:    Public Resources Code Sections 29760, 29763, and 29763.5.

## Section 20100: Levees

- a) Local governments shall ensure that Delta levees are maintained to protect human life, to provide flood protection, to protect private and public property, to protect historic structures and communities, to protect riparian and upland habitat, to promote interstate and intrastate commerce, to protect water quality in the State and federal water projects, and to protect recreational use of the Delta area. Delta levee maintenance and rehabilitation shall be given priority over other uses of the levee areas. To the extent levee integrity is not jeopardized, other uses, including support of vegetation for wildlife habitat, shall be allowed.
- b) If levee guidelines are needed, local governments shall adhere to guidelines for federal and local levee maintenance and construction at a minimum as stipulated in the Flood Hazard Mitigation Plan guidelines developed by California Office of Emergency Services and the Federal Emergency Management Agency in the 1987 agreement, and set longer term goals of meeting Public Law 84-99 (Emergency Rehabilitation of Flood Control Works or Federally Authorized Coastal Protection Works), standards administered by the Corps of Engineers. If vegetation standards are needed, local governments shall adopt the adopted vegetation guidelines, which promote native grasses and limited vegetation on specific areas of the levee.
- c) Through flood ordinances based on Flood Emergency Management Act model ordinances, developed by the International Conference of Building Officials and included in the Uniform Building Code, local governments shall carefully and prudently carry out their responsibilities to regulate new construction within flood hazard areas to protect public health, safety, and welfare. Increased flood protection shall not result in densities beyond those allowed under zoning and general plan designations in place on January 1, 1992, for lands in the Primary Zone.
- d) Local governments shall ensure that existing programs for emergency levee repair should be strengthened and better coordinated between local, State, and federal governments and shall include: interagency agreements and coordination; definition of an emergency; designation of emergency funds; emergency contracting procedures; emergency permitting procedures; and other necessary elements.
- e) Local governments shall use their authority to control levee encroachments that are detrimental to levee maintenance.

Authority:     Public Resources Code Section 29752.

Reference:    Public Resources Code Sections 29760, 29763, and 29763.

Section 20110: Marine Patrol, Boater Education, and Safety Programs

- a) Local governments that have or plan to have marine patrols shall possess adequate marine patrol equipment to ensure communication with other county marine patrols, with State patrols on Delta waters, and with the Coast Guard.
- b) Local governments that have marine patrols shall notify the Coast Guard when and where patrols are on the water.
- c) Local governments that have marine patrol units shall participate in at least one Coast Guard, or Delta Protection Commission sponsored meeting per year to coordinate with other Delta law enforcement programs to develop strategies for effective control, to discuss new laws and programs, and generally increase effectiveness and communication between the various marine patrol programs.
- d) Local governments that have or plan to have marine patrol, boater education, and/or safety programs shall develop methods for quick processing of intoxicated boat operators that would ensure that marine patrol staff remains on the water.
- e) Local governments that have or plan to have marine patrol services shall recognize towing of disabled vessels as a low priority activity and should develop relationships with volunteer groups or private vendors to provide such services.
- f) Local governments that have or plan to have marine patrol, boater education, and/or safety programs shall develop funding and implementation strategies to remove abandoned vessels from county waterways to avoid pollution of Delta waters and remove hazards to navigation.
- g) Local governments that have or plan to have marine patrol programs shall coordinate with Department of Fish and Game to provide support in enforcement of State hunting and fishing laws.
- h) Local governments that have or plan to have marine patrol programs shall provide adequate levels of marine patrol to ensure public health and safety on the waters of the Delta, taking into account funding available and the number of vessels moored in the Delta, launched into the Delta, and which travel into the Delta.

- i) Local governments that have or plan to have marine patrol, boater education, and/or safety programs shall identify problems and solutions surrounding crimes of environmental pollution which can be addressed by local governments. Local governments shall consider feasible solutions (additional pump-outs, dye tablets in holding tanks, rewards for observers, etc.).
  - j) Local governments that have or plan to have marine patrol, boater education, and/or safety programs shall implement or support education and safety programs to address local, state, and federal laws aimed especially at personal water craft operators and means to encourage attendance at such programs.
  - k) Local governments that have or plan to have boater education programs shall implement or support boater education programs to address local, State, and federal laws and means to encourage attendance at such programs.
  - l) Local governments that have or plan to have marine patrol programs shall encourage and coordinate with volunteer programs within their jurisdiction as a way to supplement human resources on the Delta waterways.
  - m) Local governments that have or plan to have marine patrol programs shall ensure that adequate funds are reserved for marine patrol services. Sources could include: reservation of existing funds such as vessel property tax, launch fees, fines collected from violators, county share of Fish and Game Code violation fines, and possible funds generated from rental houseboats, boats or personal watercraft, or from marina berths.
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Authority: Public Resources Code Section 29752.

Reference: Public Resources Code Sections 29760, 29763, and 29763.5.